



STATE BOARD OF EQUALIZATION

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Executive Director

January 2, 1997

Ms. E--- G---
Executive Director

--- --- ---
XXXX --- Drive, Suite XXX
--- ---, CA XXXXX-XXXX

[No Permit Number]
Santa Clara Traffic Authority
(SCTA)
Request for Taxpayer
Information

Dear Ms. G---:

I am responding to your letter dated November 14, 1996, to Executive Director E. L. Sorensen, Jr., regarding your request for certain taxpayer data from Board records.

You indicate that you are making this request, pursuant to your final audit of Board records prior to the termination of the Santa Clara Traffic Authority (SCTA) on March 31, 1997, because you have been denied access to "pool" data, which you indicate you need to complete the audit. By the term "pool data," we assume you mean data regarding distribution of Bradley-Burns tax monies to the jurisdictions participating in that system by means of the countywide pools.

As Mr. Sorensen explained in his letters to you, dated October 10 and November 14, 1996, and as I explained in my letter to A--- C. K---, the attorney for --- --- --- (M), SCTA's consulting firm, in a letter dated May 3, 1996, and as we have discussed in our conferences, districts do not receive local tax revenues. Under the Transactions and Use ("District") Tax Law (Rev. & Tax. Code §§ 7251-7279.6), each district levies its tax pursuant to its own enabling legislation (for SCTA--Public Utilities Code section 140251), and the Board administers the tax under the District Tax Law. (Unless otherwise stated, all statutory citations are to the Revenue and Taxation Code.)

Counties and cities levy sales and use taxes under the authority of the Bradley-Burns Uniform Local Sales and Use ("Local") Tax Law (§§7200-7212). Since the countywide pools transmit no SCTA revenues, there is no taxpayer information contained therein pertinent to SCTA's requirements. As a result, taxpayer information regarding the pools cannot be released to SCTA or any other taxing district. (§ 7056(a).)

Below are our responses to your information requests, using your item numbers.

1. We previously provided distribution data on 6250 BPI nine-track magnetic tape for First Quarter 1994 through Second Quarter 1995. We will update that information through Third Quarter 1996, the most recent quarterly filing period using the same media format. For earlier periods, we will provide the requested data in the following formats:

- (a.) July 1993 through December 1993 - Microfiche
- (b.) June 1985 through June 1993 - Photocopies of microfiche records.

Please note, the microfiche and photocopy records must be processed manually; consequently, we will require from four to six weeks to complete the project. In addition, we are unable to distinguish from these media formats, whether the distributed revenue is use tax or transactions (sales) tax, because that information is not identified by taxpayers on their returns.

With regard to your request for specific distribution methods (pool or situs), we assume you mean the temporary balancing account, called the "Statewide Amount" which, as explained in Senior Tax Auditor Dan Cady's letter to you, dated January 17, 1996, is used to reconcile district monies which have been collected but cannot be identified with a specific district. Typically, this account contains no more than \$500.00 per quarter on a statewide basis and often contains no money at all. We are, however, providing figures for periods Third Quarter 1991 through Third Quarter 1996 showing the account dollars distributed to SCTA (Exhibit A). Data for prior periods is no longer available.

2. The state sales (and use) taxes levied on sales made (or on purchases made for use) in the State of California are as follows (all statutory citations are, unless otherwise stated, to the Revenue and Taxation Code):

§ 6051 (§ 6201) -	4.75%
§ 6051.2 (§ 6201.2) -	.50%
§ 6051.3 (§ 6201.3) -	.25%
Art. XIII, § 35, Cal. Const. -	.50%

3. The state may not impose local taxes. (Cal Const. Art. XIII, § 24.) Under the Local Tax Law, the counties impose a local sales and use tax at the rate of 1.25%, and that tax is partially offset (up to 1%) by the local taxes levied by the cities. Local taxes levied within Santa Clara County are imposed by the county itself and by the cities of Campbell, Cupertino, Gilroy, Los Altos, Los Altos Hills, Los Gatos, Milpitas, Monte Sereno, Morgan Hill, Mountain View, Palo Alto, San Jose, Santa Clara, Saratoga, and Sunnyvale.

4. Cities and counties may only tax activity that occurs within their own borders. (City of South Pasadena v. Terminal Ry. Co. (1895) 109 Cal. 315, 321.) As a result, no local tax that is imposed by any jurisdiction other than the county is distributed to it. As to Board-administered district taxes levied within Santa Clara County, because SCTA's tax terminated on March 31, 1995, the only such tax in effect currently is the one imposed by the Santa Clara County Transit District (SCTD). A new district tax levied by the county was approved by the voters under section 7285 at the General Election on November 5, 1996. It is, however, not yet in effect.

5. As explained above, districts do not receive local tax revenues. Because the Board is constrained by section 7056(a) from releasing taxpayer information pertaining to a particular tax to any entity other than the one that levied the tax in question, and SCTA receives no distributions of local tax revenue, we cannot furnish the data you requested.

6. We are unable to provide registration information for taxpayers “. . . that paid or collected a transaction sales or use tax . . . ,” because registration records are not maintained based on payment criteria. We will, however, furnish current registration data for all active businesses (including sublocations and recent close-outs) registered within Santa Clara County including the unincorporated area of the County and all cities located within the county. This information should be available on 6250 BPI nine-track magnetic tape within two weeks. This data was previously offered in January 1996, but Mr. R--- E--- declined the offer indicating that the data was not needed.

7. The listing that you requested, of taxpayers registered or located elsewhere that paid or collected SCTA tax, cannot be supplied, because our current mainframe system is not equipped to segregate that category of data. As you are aware, many taxpayers who do not have a physical location within the district are nevertheless considered to be engaged in business in the district by virtue of salesmen or other types of presence in the district. Accordingly, these businesses are required to collect and report the district use tax. However, nothing in these taxpayers' registration records indicates that they are “engaged in business” in the district. Consequently, the most reliable source of the information you are seeking would be the distribution detail provided in item #1.

8. As explained above, districts do not receive distributions from the local tax pools. The only distributions by means of a formula which districts receive are from the Statewide Amount also discussed above. The formula used to arrive at those amounts, is shown for the periods

Third Quarter 1991 through Third Quarter 1996 on Exhibit B, which depicts the total collections for and payments to SCTA for this period. The amounts in this account are very small, and in many quarters there is no money in it at all. Prior period information has been purged from the Board's records. The Board's Records Retention Schedule requires these records to be held for no less than four years.

9. We were not entirely clear in our understanding of your question, because you did not specify in what years you had found suspected discrepancies. We have, however, identified three possible reasons for differences appearing between "Collections" and "Distributions" of district taxes. These are as follows:

(a) The Board uses an accrual method for reporting revenues, however, Annual Report exhibits showing distributions are prepared using a cash method. Please refer to the Board's Annual Report for Fiscal Year 1992-93, page 23, **Type of Revenue**, Footnote "a" which reads as follows:

"The figures shown in this table and Table 2 of the Appendix) are based on the accrual reporting method, which was adopted by the Department of Finance in 1992. Under this method, revenue is credited to the fiscal year in which the **underlying taxable transaction occurred**. Elsewhere in the report, the amounts shown typically represent **revenues that were paid to the Board by the end of the fiscal year.**" (Emphasis added.)

(b) "Collections" may include taxes collected on behalf of several expired districts, however, those revenues are held in impound accounts and not distributed to the districts. In the past several years the taxes levied by certain districts (San Diego County Regional Justice Facility District, Monterey County Public Repair and Improvement Authority, and San Francisco Educational Financing Authority) were held to be unconstitutional by final court judgments. This year, the Fresno Metropolitan Projects Authority Tax was added to that list. We are holding funds from that district as well, pending refunds, credits, and final disposition of funds.

(c) As you are aware, administrative fees are deducted from collections prior to the distribution of revenues. This also will have a bearing on the correlation between collections and distributions.

As regards your request to retain all taxpayer records that may be relevant to SCTA's performance of its duties, SBE retains all taxpayer records for the periods required by law. The Board is prohibited from retaining records except as authorized by law.

I hope the above discussion has answered your question.

Sincerely,

Gary J. Jugum
Assistant Chief Counsel

GJJ/JLW:sr

cc: Mr. E. L. Sorensen, Jr. (MIC:73)
Mr. John P. Waraas (MIC:74)
Mr. Glenn A. Bystrom (MIC:43)
Chief, Return Analysis and Allocation Division (MIC:32)
Mr. Larry Micheli (MIC:27)
Mr. John L. Waid